

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**JUXTACOMM-TEXAS SOFTWARE,  
LLC,**

**Plaintiff**

**vs.**

**AXWAY, INC., et al.,**

**Defendants**

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**CASE NO. 6:10CV11  
PATENT CASE**

**ORDER**

Defendants Progress Software Corporation and Iona Technologies Limited move to strike Plaintiff JuxtaComm’s patent infringement contentions (“PICs”) or alternatively move to compel amended PICs (Docket No. 317). Having considered the parties’ written submissions, the Court **DENIES** the motion.

Progress and Iona contend JuxtaComm’s PICs are insufficient because they do not provide any theory, analysis, or explanation as to how Progress’s and Iona’s products allegedly infringe the ‘662 patent. Progress and Iona argue that is “incumbent on JuxtaComm to explain in its contentions how each of Progress’s instrumentalities and Iona’s instrumentalities allegedly infringe.”

While a plaintiff’s PICs should “set forth particular theories of infringement,” *see ConnecTel, LLC v. Cisco Sys., Inc.*, 391 F. Supp. 2d 526, 527–28 (E.D. Tex. 2005) (Davis, J.), a plaintiff is not required to explain its infringement theories in its PICs. Explanations are appropriately given in the course of further discovery, specifically interrogatory answers and/or expert reports and depositions.

In the course of this motion practice, the parties have reached an understanding on at least one of the limitations. From this, it is clear to the Court that the parties did not adequately

substantively meet and confer in an attempt to resolve the issues underlying the motion without Court intervention. Accordingly, the Court **DENIES** the motion without prejudice but **ORDERS** the parties' attorneys to meaningfully meet and confer in person or by telephone for no less than four hours or until the issues have been resolved. During this meet and confer, JuxtaComm shall be forthcoming as to what its PICs are attempting to accuse but is not required to give explanations that are more appropriately provided in an expert report or deposition. If the parties have disagreements during this meet and confer that they cannot resolve on their own, they may call the District's Discovery Hotline for guidance. The Court reminds the parties that it has high expectations of counsels' ability to work together amicably to resolve these types of issues without Court intervention.

**So ORDERED and SIGNED this 13th day of October, 2010.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**